

JAMIE LYNN GALLIAN
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Huntington Beach, CA 92649
(714)321-3449 jamiegallian@gmail.com

IN PRO PER

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA – SANTA ANA DIVISION

In re

JAMIE LYNN GALLIAN,
Debtor.

Case No. 8:21-bk-11710-ES

Chapter 7

REQUEST TO DISMISS DEBTOR’S NOTICE
OF APPEAL WITHOUT PREJUDICE RE:
DOC. NO. 143, DOC 161, and DOC 169.
RESPECTIVELY.

[NO HEARING REQUIRED]

TO THE HONORABLE ERITHE A. SMITH, UNITED STATES BANKRUPTCY JUDGE,
CHAPTER 7 TRUSTEE, JEFFREY O GOLDEN AND ALL INTERESTED PARTIES:

Debtor, Jamie Lynn Gallian (“Ms. Gallian,”) request this Honorable Court dismiss
 (“Dismissal without Prejudice”) to dismiss Ms. Gallians’ Notice of Appeal filed July 21, 2022, DOC
 143, and debtor’s intended AMENDED Notice of Appeal filed July 28, 2022, DOC 161, and DOC
 169, respectively, without prejudice.

RECITALS

A. On July 9, 2021, Debtor Jamie Lynn Gallian, filed a Chapter 7 petition. IN PRO PER.
DOC 1.

B. The Trustee’s 341 Meeting was concluded on April 29, 2022, DOC 85.

C. On May 12, 2022, Interested Party Houser Bros. Co. dba Rancho Del Rey Mobile
Home Estates (“Houser Bros.”) filed a “Motion Objecting to Debtor’s Claimed Homestead
Exemption” (“Homestead Motion”), DOC 95.

1 D. On June 1, 2022, Debtor filed “Debtors Reply Opposition, Memorandum of Points
2 and Authorities to Houser Bros. Co. dba Rancho Del Rey Mobile Home Estates’ Motion Objecting
3 to Debtor’s Claimed Homestead Exemption and Joinder Interested Parties The Huntington Beach
4 Gables HOA; and Janine Jasso” (“Homestead Opposition”), DOC 105.

5 E. On June 2, 2022, shortly before 10:30 a.m., the Court posted a tentative ruling on the
6 Houser Bros Co.’s Homestead Motion. The court continued the hearing on the Homestead Motion
7 to July 21, 2022, at 10:30 a.m. to allow Interested Party Houser Bros. Co. and the Joining Interested
8 Parties, The Huntington Beach Gables Homeowners Association and former HOA Gables Attorney
9 and Interested Party Janine Jasso, Esq. to file a reply to Debtor’s Late Opposition filed on June 1,
10 2022, DOC 105.

11 F. On July 21, 2022, shortly before the 10:30 a.m. Court hearing, the Court Clerk
12 checked the parties in waiting on ZOOM. Shortly thereafter the Court Clerk informed all interested
13 parties including Houser Bros Co. and Debtor, Ms. Gallian, the Court uploaded its Tentative Ruling
14 and to REFRESH the Court’s Tentative Ruling Webpage.

15 G. The Court published it’s tentative ruling to the CACB Tentative Rulings Web Page.
16 The TR Granted Interested Party Houser Bros Motion (“July 21 TR”).

17 H. Prior to the Court Clerk reading the Tentative Ruling of 7/21/2022, into the record,
18 Ms. Gallian uploaded and Lodged to the Courts Drop Box for self-represented parties, a “Real
19 Time” Screen Capture of the Status of Ms. Gallian’s Homeowners Exemption active with the
20 Orange County Tax Assessor’s Office since February 25, 2021, DOC 139.

21 I. After the Court Clerk read the Tentative Rulings on the record, Ms. Gallian indicated
22 to the Court Clerk she would like to be heard on the Court’s Tentative Ruling. The TR was moved
23 to the Regular Calendar.

24 J. On July 21, 2022, just before 11:00 a.m., the Court held the continued hearing on
25 Houser Bros Co. Motion DOC 95. During the hearing, the Court called on Debtor to present oral
26 argument against the Court’s Tentative Ruling.

27 K. Debtor emailed the moving party’s counsel. Ed Hays, and the Chapter 7 Trustee,
28 Jeffrey Golden, and his General Counsel, a copy of the Tax Assessor’s “Real Time” information

1 lodged DOC 139. Debtor informed and invited the Court to review the “Real Time Screen Capture
2 Image” sent to debtor before the July 21, 2022, Court hearing from the Tax Assessors Exemption
3 Department indicating Ms. Gallian’s Homeowners Exemption has been active in Orange County
4 since February 25, 2021.

5 L. Moving Party objected to the Court reviewing the Lodged Real Time Image emailed
6 to moving party before the Court took the bench. Moving party questioned the “authenticity” of the
7 Orange County Tax Assessors Real Time Screen Capture presented to the Court.

8 M. The Court did not consider the Lodged evidence citing it was not provided to the
9 Court in the Opposition DOC 105, and it would be “unfair to the Chapter 7 Trustee” if the Court
10 viewed and considered the Lodged Real Time Document from the Orange County Tax Assessors
11 Office, without the Chapter 7 Trustee having an opportunity to review beforehand.

12 N. The Court orally granted Interested Party Houser Bros Co. Homestead Motion for the
13 reasons stated in its July 21, 2022, tentative ruling.

14 O. On July 21, 2022, as DOC 140, Debtor filed a second “Notice of Lodgment”
15 attaching a Certified Copy from the Orange County Tax Assessors [sic] Proof of Debtors [sic]
16 Homestead Exemption Effective 2/25/2021 in Support of Opposition to Motion Objecting to
17 Claimed Homestead Exemption” with the Certified Copy from the Orange County Tax Assessor’s
18 Office of the (“Second NOL”).

19 P. On July 21, 2022, as DOC 143, Debtor filed a “Notice of Appeal and Statement of
20 Election” (“Notice of Appeal”) regarding a “7/21/2022 Ruling Denying Debtors [sic] Declared
21 Homestead and Debtors [sic] Homeowners Exemption Effective February 25, 2021, with the
22 Orange County Tax Assessor Pursuant to California Department of Housing and Community
23 Development Certificate of Title Perfected February 25, 2021.”

24 Q. On July 26, 2022, Debtor prepared and filed Debtor’s Notice of and Motion for
25 Reconsideration of 7.21.22 Order Sustaining Houser Bros Co DBA Rancho Del Rey Mobilehome
26 Estates Objection to Debtor’s Claimed Homestead Exemption and Joinder Parties Huntington
27 Beach Gables HOA; Janine Jasso, DOC 157. The hearing was set for 8/18/2022, DOC 159.

28 R. On July 28, 2022, Debtor’s Notice of Appeal and Statement of Election To

1 Bankruptcy Appellate Panel (“BAP”) based on Debtor’s Official Form 417A election, and has been
2 assigned BAP Case No. 22-1146 (“BAP Appeal”). Docket No. 161.

3 S. On July 28, 2022, the Bankruptcy Court issued a Deficiency letter to Appellant sent
4 through the U.S. Mail to debtor, indicating the filing fee was not paid and the NOA did not include
5 a Stamped Copy Of Order, DOC 165.

6 T. On July 29, 2022, the Bankruptcy Court received debtors Appeal Late Noticing Filing
7 Fee in the amount of \$298.00, Receipt No. 80076183.

8 U. On August 1, 2022, DOC 167, Debtor filed Notice of Motion and Motion for Leave
9 from the Bankruptcy Appeal Panel to Permit the Bankruptcy Court to Consider Debtor’s Motion for
10 Re-Consideration (“Reconsideration Motion”) DOC 157. The hearing on the Reconsideration
11 Motion is scheduled for August 18, 2022.

12 V. On August 2, 2022, Houser Bros. filed an Optional Appellee Statement of Election to
13 Proceed in U.S. District Court. DOC 168.

14 W. On August 4, 2022, debtor Jamie Lynn Gallian, filed Notice of Appeal and Statement
15 of Election (Official Form 417A) DOC 169.

16 X. However, the debtor [DID NOT] note the words AMENDED on the face of the NOA
17 to indicate her desire and intention DOC 169 was intended to correct the deficiency letter debtor
18 received in the U.S. Mail related to NOA DOC 161.

19 Y. On August 4, 2022, Houser Bros. filed a Response to Debtor’s Motion for
20 Reconsideration of 7-21-22 Order Sustaining Houser Bros. Co. dba Rancho Del Rey Mobile Home
21 Estates Objection to Debtor's Claimed Homestead Exemption (“Response”). DOC 170

22 Z. On August 4, 2022, the Bankruptcy Court issued a second deficiency letter to
23 Appellant through the U.S. Mail, DOC 174. citing the following reasons, \$298.00 Filing Fee Not
24 Paid; The Notice of Appeal Does Not Conform Substantially With The Notice Of Appeal And
25 Statement of Election (Official Form 417A: Does Not Include The Title Of Order, Judgment, Or
26 Decree; Does Not Include The Entered Date Of Order, Judgment, Or Decree; Does Not Include
27 Entered Stamped Copy Of Order, Judgment, Or Decree; related document(s) DOC 169 Notice Of
28 Appeal and Statement of Election; (RE al Form 417A) filed by Debtor Jamie Lynn Gallian.

1 AA. On August 4, 2022, a Notice of Referral Of Appeal To United States Bankruptcy
2 Appellate Panel Of The Ninth Circuit (BAP) with certificate of mailing (RE: related document(s)
3 161 Notice of Appeal and Statement of Election (Official Form 417A) filed by Debtor Jamie Lynn
4 Gallian)(Attachments: #1 Notice of Appeal and Statement of Election #2 Notice of Motion and
5 Motion for Leave From the Bankruptcy Appellate Panel to Permit The Bankruptcy Court to
6 Consider Debtor's Motion for Re-Consideration (DOC 157) on August 18, 2022; #3 Notice of
7 Transcript(s) Designated for an Appeal; #4 Transcript Order Form; #5 Amended Order Continuing
8 The Bankruptcy Appellant Panel Of The Ninth Circuit.

9 BB. On August 4, 2022, Notice Of Referral To United States Bankruptcy Appellate Panel
10 Of The Ninth Circuit (BAP) with certificate of mailing (RE: related document(s) 169 Notice of
11 Appeal and Statement of Election (Official Form 417A) filed by Debtor Jamie Lynn Gallian
12 (Attachments: #1 Notice of Appeal and Statement of Election; #2 Notice of Transcripts Designated
13 for An Appeal; #3 Transcripts Order Form #4 Amended Order Continuing the Bankruptcy
14 Appellant Panel of the Ninth Circuit).

15 CC. On August 5, 2022, the Court signed and entered Order Granting Houser Bros Co.
16 dba Rancho Dey Rey Mobilehome Estates Motion Objecting to Debtor's Claimed Homestead
17 Exemption Homestead Motion ("Order"), DOC 177.

18 DD. On August 11, 2022, Debtor filed a reply to Houser Bros. Response, DOC 185.

19 EE. On August 12, 2022, the Bankruptcy Appellate Panel filed Opening Letter sent to
20 Debtor through the U.S. Mail, DOC 186

21 FF. The Parties agree that Notice of Appeal DOC 143 and 161, will be dismissed without
22 prejudice so that the Court can hear the Reconsideration Motion on the Merits, August 18, 2022.

23

24 **DEBTOR'S REQUEST TO DISMISS NOTICE OF APPEAL**
25 **WITHOUT PREJUDICE**

26 1. Debtor respectfully requests Appeal DOC 143, DOC 161 and DOC 169,
27 be dismissed without prejudice;
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1 2. Debtor may file a Notice of Appeal of the Order and/or any Order on her
2 Reconsideration Motion on or before the date that is 14 days after entry of the Order on the
3 Reconsideration Motion pursuant to Rule 8002 of the Federal Rules of Bankruptcy Procedure.

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5 Signed thus 17th day of August 2022, at Huntington Beach, CA. County of Orange.

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7 DATED: August 17, 2022

Respectfully submitted,

8 

9 By: JAMIE LYNN GALLIAN
10 Debtor, IN Pro Per
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PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
5801 Skylab Road
Huntington Beach, CA 92649

A true and correct copy of the foregoing document entitled (*specify*): Request to Dismiss Debtor's
Notice of Appeal without prejudice re: DOC 143, DOC 161 and DOC 169, respectively.

will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) 08/17/2022, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☒ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (*date*) _____, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) _____, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

08/17/2022 Robert McLelland
Date Printed Name

Robert McLelland
Signature

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): CONTINUED:

- **ATTORNEY FOR TRUSTEE JEFFREY I GOLDEN (TR):** Aaron E DE Leest adeleest@DanningGill.com, danninggill@gmail.com; adeleest@ecf.inforuptcy.com
- **ATTORNEY FOR CREDITOR and PLAINTIFF THE HUNTINGTON BEACH GABLES HOMEOWNERS ASSOCIATION:** Robert P Goe kmurphy@goeforlaw.com, rgoe@goeforlaw.com; goeforecf@gmail.com
- **TRUSTEE JEFFREY I GOLDEN (TR):** Jeffrey I Golden (TR) lwerner@wgllp.com, jig@trustesolutions.net; kadele@wgllp.com
- **ATTORNEY FOR PLAINTIFF HOUSER BROS. CO.:** D Edward Hays ehays@marshackhays.com, ehays@ecf.courtdrive.com; kfrederick@ecf.courtdrive.com; cmendoza@marshackhays.com; cmendoza@ecf.courtdrive.com
- **ATTORNEY FOR CREDITOR and PLAINTIFF THE HUNTINGTON BEACH GABLES HOMEOWNERS ASSOCIATION:** Brandon J Iskander biskander@goeforlaw.com, kmurphy@goeforlaw.com
- **ATTORNEY FOR TRUSTEE JEFFREY I GOLDEN (TR):** Eric P Israel eisrael@DanningGill.com, danninggill@gmail.com; eisrael@ecf.inforuptcy.com
- **ATTORNEY FOR PLAINTIFF HOUSER BROS. CO.:** Laila Masud lmassud@marshackhays.com, lmassud@ecf.courtdrive.com; kfrederick@ecf.courtdrive.com
- **ATTORNEY FOR DEFENDANT RANDALL L NICKEL:** Mark A Mellor mail@mellorlawfirm.com, mellormr79158@notify.bestcase.com
- **INTERESTED PARTY COURTESY NEF:** Valerie Smith claims@recoverycorp.com
- **U.S. TRUSTEE:** United States Trustee (SA) ustpreion16.sa.ecf@usdoj.gov

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

June 2012

F 9013-3.1.PROOF.SERVICE